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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert C. Shaddox
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, Texas 75201

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| In re Application of | : | DECISION ON |
| KHABASHESKU et al | : | |
| PCT No.: PCT/US2005/001310 | : | |
| Application No.: 10/585,591 | : | |
| Int. Filing Date: 18 January 2005 | : | RENEWED REQUEST FILED |
| Priority Date: 21 January 2004 | : | |
| Attorney's Docket No.: 11321-PO81 WOUS | : | |
| For: NANOTUBE-AMINO... PREPARING THE SAME | : | UNDER 37 CFR 1.42 |

This is a decision on the "RENEWED SUBMISSION UNDER 37 CFR 1.42" filed 22 December 2008.

BACKGROUND

In a decision from this Office dated 31 October 2008, the request filed on 02 May 2008 was not accepted.

On 22 December 2008, applicants filed a renewed request accompanied with, inter alia, an executed declaration concerning the blocks for deceased inventor John L. Margrave and his legal representative, Mary Lou Margrave.

DISCUSSION

The renewed submission includes, a newly executed declaration signed by Mary Lou Margrave as Legal Representative of the deceased inventor (John L. Margrave) and the declaration now sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representative.

However, in this instance, applicants have still not submitted a proper composite declaration. A declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. The current filed declaration consists of five (5) pages but pages 4 and 5 appear to be copies of the same page with the exception that the fifth page lists the deceased inventor. Page 4 lists Mary Lou Margrave (legal representative) and inventor Peng and has his signature but Page 5 also lists inventor Peng, and then lists John L. Margrave (deceased inventor) and Mary Lou Margrave (legal representative) and has the legal representative signature. As such, the executed declaration as currently filed is improper.

A composite executed declaration set must not repeat the names of the inventors in different pages as here with pages 4 and 5 because they are not part of a proper composite declaration. A proper composite declaration must have each set of the declaration complete with the proper statement and the names of all the inventors even though each set of the declaration may not have all the signatures of the inventors. However, the individual complete sets that taken as a whole form the composite declaration that would have all the required signatures as required under 37 CFR 1.497(a)(3).

At the present time the composite Declaration is improper.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Second Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Office of PCT Legal Administration, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-